

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: JOHNSON & JOHNSON
TALCUM POWDER PRODUCTS
MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY
LITIGATION

DAVID ROBINSON, Individually and as
Beneficiary of the Estate of LILA
ROBINSON,

Plaintiff,

v.

JOHNSON & JOHNSON, and JOHNSON
& JOHNSON CONSUMER INC.,
Defendants.

MDL No. 16-2738 (FLW) (LHG)
JUDGE FREDA L. WOLFSON
MAG. JUDGE LOIS H. GOODMAN

COMPLAINT AND JURY DEMAND

Civil Action No.: 3:19-cv-13101

DIRECT FILED ACTION

SHORT FORM COMPLAINT AND JURY DEMAND

The Plaintiff(s) named below file(s) this *Short Form Complaint and Demand for Jury Trial* against Defendants named below by and through the undersigned counsel. Plaintiff(s) incorporate(s) by reference the allegations contained in *Plaintiffs' Master Long Form Complaint* in *In re: Talcum Powder Products Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2738 in the United States District Court for the District of New Jersey. Plaintiff(s) file(s) this Short Form Complaint as permitted by Case Management Order No. 1 of this Court.

In addition to those causes of action contained in *Plaintiffs' Master Long Form Complaint*, where certain claims require specific pleadings and/or amendments, Plaintiff(s) shall add and include them herein.

IDENTIFICATION OF PARTIES

Identification of Plaintiff(s)

1. Name of individual injured due to the use of talcum powder product(s):

Lila Robinson. Name of individual bringing suit **David Robinson, Individually and as Beneficiary of the Estate of Lila Robinson**.

2. At the time of the filing of the specific case, Plaintiff is a citizen of **Texas**.

3. Consortium Claim(s): The following individual(s) allege damages for loss of consortium: **n/a**.

4. Survival and/or Wrongful Death Claims:

Name and residence of Decedent Plaintiff when she suffered the talcum powder product(s) related death: **Lila Robinson; Winnsboro, Texas**.

5. Decedent was born on **November 29, 1934** and died on **August 26, 2017**.

6. Plaintiff is filing this case as the Personal Representative of the Estate of Lila Robinson pursuant to Tx. Civ. Prac. & Rem. Ann. Code § 71.004.

7. As a result of using talcum powder products, Plaintiff/Decedent suffered personal and economic injur(ies) that are alleged to have been caused by the use of the products identified in Paragraph 16 below, but not limited to, the following:

- ✓ injury to himself
- ✓ injury to the person represented
- ✓ wrongful death
- ✓ survivorship action

✓ economic loss

✓ loss of services

loss of consortium

_____ other: _____

Identification of Defendants

8. Plaintiff(s)/Decedent Plaintiff(s) is/are suing the following

Defendant(s) (please check all that apply):¹

✓ : Johnson & Johnson

✓ : Johnson & Johnson Consumer Inc.

: Imerys Talc America, Inc. (“Imerys Talc”)

: Personal Care Products Council (“PCPC”)

Additional Defendants:

☐ Other(s) Defendant(s) (please specify): N/A

JURISDICTION & VENUE

Jurisdiction:

9. Jurisdiction in this Short Form Complaint is based on:

✓ **Diversity of Citizenship**

¹ If additional Counts and/or Counts directed to other Defendants are alleged by the specific Plaintiff(s) as to whom this *Short Form Complaint* applies, the specific facts supporting these allegations must be pleaded by the Plaintiff(s) in a manner complying with the requirements of the Federal Rules of Civil Procedure, and the Defendants against whom they are alleged must be specifically identified on a separate sheet of paper attached to this *Short Form Complaint*.

Venue:

10. District Court(s) and Division (if any) in which venue was proper where you might have otherwise filed this Short Form Complaint absent the direct filing Order entered by this Court and to where remand could be ordered by the Judicial Panel for trial: **Eastern District of Texas, Texarkana Division**

CASE SPECIFIC FACTS

11. Plaintiff(s) currently reside(s) in (City, State): **Winnsboro, Texas.**
12. At the time of the Decedent's diagnosis with a talcum powder product(s) injury, Decedent resided in (City, State) **Winnsboro, Texas.**
13. The Decedent was diagnosed with a talcum powder product(s) injury in (City/State): **Tyler, Texas, in or around September 2016.**
14. To the best of Plaintiff's knowledge, Decedent began using talcum powder product(s) on or about the following date: **2000** and continued the use of talcum powder product(s) through about the following date: **2017.**
15. The Decedent purchased talcum powder product(s) in the following (State(s)): **Texas.**
16. Decedent used the following talcum powder products:

✓ **Johnson & Johnson's Baby Powder**

Shower to Shower

CAUSES OF ACTION

17. Plaintiff(s) hereby adopt(s) and incorporate(s) by reference the *Master Long Form Complaint and Jury Demand* as if fully set forth herein.

18. The following claims and allegations asserted in the *Master Long Form Complaint and Jury Demand* are herein adopted by reference by Plaintiff(s): **ALL**

COUNTS LISTED BELOW ARE ADOPTED.

Count I: Products Liability – Strict Liability – Failure to Warn
(Against Imerys Talc)

- ✓ Count II: Products Liability – Strict Liability – Failure to Warn (Against the Johnson & Johnson Defendants)

Count III: Products Liability – Strict Liability –
Defective Manufacturer and Design (Against Imerys
Talc)

- ✓ Count IV: Products Liability – Strict Liability –
Defective Manufacturer and Design (Against the
Johnson & Johnson Defendants)

- ✓ Count V: Breach of Express Warranties (Against the
Johnson & Johnson Defendants)

- ✓ Count VI: Breach of Implied Warranty of
Merchantability (Against the Johnson & Johnson
Defendants)

- ✓ Count VII: Breach of Implied Warranty of Fitness for a
Particular Purpose (Against the Johnson & Johnson
Defendants)

Count VIII: Negligence (Against Imerys Talc)

- ✓ Count IX: Negligence (Against the Johnson & Johnson Defendants)

Count X: Negligence (Against PCPC)

- ✓ Count XI: Negligent Misrepresentation (Against the Johnson & Johnson Defendants)

- ✓ Count XII: Fraud (Against the Johnson & Johnson Defendants)

Count XIII: Fraud (Against PCPC)

- ✓ Count XIV: Violation of State Consumer Protection Laws of the State of **Texas** (Against the Johnson & Johnson Defendants).

Count XV: Fraudulent Concealment (Against Imerys Talc)

- ✓ Count XVI: Fraudulent Concealment (Against the Johnson & Johnson Defendants)

Count XVII: Fraudulent Concealment (Against PCPC)

- ✓ Count XVIII: Civil Conspiracy (Against the Johnson & Johnson Defendants)

- ✓ Count XIX: Loss of Consortium (Against the Johnson & Johnson Defendants)

- ✓ Count XX: Punitive Damages (Against the Johnson & Johnson Defendants)

- ✓ Count XXI: Discovery Rule and Tolling (Against the Johnson & Johnson Defendants)

- ✓ Count XXII: Wrongful Death (Against the Johnson & Johnson Defendants)

- ✓ Count XXIII: Survival Action (Against the Johnson & Johnson Defendants)

WHEREFORE, Plaintiff(s) pray(s) for relief and judgment against Defendants of compensatory damages, punitive damages, interest, costs of suit, and such further relief as the Court deems equitable and just, and as set forth in the Master Long Form Complaint as appropriate.

JURY DEMAND

Plaintiff(s) hereby demand a trial by jury as to all claims in this action.

Dated: May 28, 2019

Respectfully submitted,

/s/ Warren T. Burns

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